

Senate Bill No. 1162

CHAPTER 546

An act to add and repeal Article 1.5 (commencing with Section 18705) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 16, 2004. Filed
with Secretary of State September 16, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1162, Machado. Income taxes: designations: California Military Family Relief Fund.

Under the existing Personal Income Tax Law, taxpayers are allowed to contribute amounts in excess of their tax liability for the support of specified funds.

This bill would, upon another voluntary contribution designation being removed, additionally allow taxpayers to designate on their tax returns that a specified amount in excess of their tax liability be transferred to the California Military Family Relief Fund, which would be created by this bill to accept contributions from taxpayers and from other sources. It would require money in that fund, upon appropriation by the Legislature, to be allocated to the Military Department to provide financial aid grants to eligible members of the California National Guard who are California residents, who have been called to active duty.

The bill would require the Franchise Tax Board to revise the form of tax returns to provide for the designation and would allow, upon appropriation by the Legislature, the Franchise Tax Board and the Controller to receive a portion of the funds designated to cover costs incurred in collecting and administering the funds.

The bill would provide that these provisions shall remain in effect only until January 1 of the 5th taxable year following the first appearance of the California Military Family Relief Fund on the tax return, unless a later enacted statute deletes or extends that date. If, however, in the 2nd or any other applicable calendar year, the Franchise Tax Board estimates by September 1 that the contributions made on returns filed in that calendar year will be less than \$250,000 or an adjusted amount, then this article would be repealed with respect to taxable years beginning on or after January 1 of that calendar year.

The people of the State of California do enact as follows:

SECTION 1. Article 1.5 (commencing with Section 18705) is added to Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 1.5. California Military Family Relief Fund

18705. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Military Family Relief Fund, established by Section 18706. That designation is to be used as a voluntary checkoff on the tax return.

(b) The contributions shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the taxpayer's liability, the return shall be treated as though no designation has been made. In the event that no designee is specified, the contribution shall be transferred to the General Fund, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article.

(d) In the event a taxpayer designates a contribution to more than one account or fund listed on the tax return, and the amount available for designation is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return to include a space labeled the "California Military Family Relief Fund" to allow for the designation permitted.

(1) The forms shall include in the instructions information that the contribution may be in the amount of one dollar (\$1) or more and that the contribution shall be used to provide financial aid grants to members of the California National Guard who are California residents, who have been called to active duty.

(2) The forms shall also include in the instructions information that additional contributions may be made at any time to the California Military Family Relief Fund, from sources other than the tax form.

(f) Notwithstanding any other provision of law, a voluntary contribution designation for the California Military Family Relief Fund may not be added to the tax return until another voluntary contribution designation is removed.



(g) A deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

18706. There is in the State Treasury the California Military Family Relief Fund to receive contributions made pursuant to Section 18705. The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money that taxpayers have designated pursuant to Section 18705 to be transferred to the California Military Family Relief Fund. The Controller shall transfer from the Personal Income Tax Fund to the California Military Family Relief Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18705 for payment into that fund. The California Military Family Relief Fund shall also accept contributions from sources other than the tax form, at anytime.

18707. All money transferred to the California Military Family Relief Fund, upon appropriation by the Legislature, shall be allocated as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) (1) To the Military Department for the establishment of financial aid grants to members of the California National Guard who are California residents, who have been called to active duty. The Military Department shall establish eligibility criteria for the grants.

(2) In addition to criteria established by the Military Department pursuant to paragraph (1), members of the California National Guard who are California residents shall show proof of all of the following to be eligible to receive a grant:

(A) Membership in the California National Guard.

(B) Residency in California.

(C) Deployment to active duty for at least 100 consecutive days.

(D) The military salary of the member has decreased by 30 percent or more from the member's civilian salary.

(3) Grants awarded pursuant to this article may only be used for any of the following: food, housing, child care, utilities, medical services, medical prescriptions, insurance, and vehicle payments.

(4) Members of the California National Guard who are California residents may not be eligible to receive a grant if the member receives a punitive discharge or an administrative discharge with service characterized as under other than honorable conditions.

18708. The Legislature finds and declares all of the following:



(a) Due to the extended war in Iraq, deployment of California's National Guard averages a year or more.

(b) Private companies do not generally offset the difference in their employees' reduced salaries while serving overseas. Military families are losing as much as 70 percent of their household income when a primary income producer serves on active duty.

(c) It is the intent of the Legislature, in enacting this article, to establish a fund for the granting of relief aid to persons who are members of the California National Guard who are California residents, who have been called to active duty.

18709. (a) This article shall, subject to subdivision (b), remain in effect only until January 1 of the fifth taxable year following the first appearance of the California Military Family Relief Fund on the tax return, and as of that date is repealed, unless a later enacted statute, that is enacted before the applicable date, deletes or extends that date.

(b) If, in the second calendar year after the first taxable year the California Military Family Relief Fund appears on the tax return, or in any subsequent calendar year, as applicable, the Franchise Tax Board estimates by September 1 that contributions described in this article made on returns filed in that calendar year will be less than two hundred fifty thousand dollars (\$250,000), or the adjusted amount specified in subdivision (c) for subsequent taxable years, as may be applicable, then this article is repealed with respect to taxable years beginning on or after January 1 of that calendar year. The Franchise Tax Board shall estimate the annual contribution amount by September 1 of each year using the actual amounts known to be contributed and an estimate of the remaining year's contribution.

(c) For each calendar year, beginning with the third calendar year that the California Military Family Relief Fund appears on the tax return, the Franchise Tax Board shall adjust, on or before September 1 of that calendar year, the minimum estimated contribution amount specified in subdivision (b) as follows:

(1) The minimum estimated contribution amount for the calendar year shall be an amount equal to the product of the minimum estimated contribution amount for the prior September 1 multiplied by the inflation factor adjustment as specified in paragraph (2) of subdivision (h) of Section 17041, rounded off to the nearest dollar.

(2) The inflation factor adjustment used for the calendar year shall be based on the figures for the percentage change in the California Consumer Price Index received on or before August 1 of the calendar year pursuant to paragraph (1) of subdivision (h) of Section 17041.

(d) Notwithstanding the repeal of this article, any contribution amounts designated pursuant to this article prior to its repeal shall



continue to be transferred and disbursed in accordance with this article as in effect immediately prior to that repeal.

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